

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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L.S. POWER SKATING,

Plaintiff,

-against-

ANGELO SERSE, *et al.*,

Defendants.
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ORDER

21-CV-8796 (CS)

Effective immediately, in light of a new District-wide health and safety protocol, it is hereby ORDERED:

1. Persons who are otherwise permitted to remove their masks in the courtroom may do so **only** if they have tested negative for COVID-19 using an approved molecular diagnostic test (see paragraphs 6 and 7 below) **on the day of and prior to** when they remove their mask in the courtroom. This protocol shall apply even when the person is in a HEPA-filter-outfitted and Plexiglas-enclosed witness box or podium, and even if they are fully vaccinated and have received a booster shot.

2. If a person will remove the person's mask on successive days, the person may test on an every-other-day schedule.

3. This protocol **does not** apply to incarcerated persons, who are tested at their facilities prior to being transported to the Courthouse.

4. This protocol also **does not** apply to persons who have had a confirmed case of COVID-19 (verified by either a doctor's note or a documented viral test result) within the 90 days before the date on which they will remove their mask.

5. In light of the above, **only testifying witnesses** will be permitted to remove their masks during the preliminary injunction hearing scheduled for February 4, 2022.

6. The Court will provide court-approved test kits to be self-administered by the witness, free of charge. The court-provided test must be taken **at least one hour** prior to the witness's appearance in the courtroom. The test can be obtained and self-administered in Room 127 at the White Plains Courthouse, 300 Quarropas Street, under the supervision of court staff. To schedule a time to take the court-approved test, counsel must email Covid_Response@nysd.uscourts.gov, **and** Bonnie_Waldron@nysd.uscourts.gov, or call the District Executive's office at (914) 390-4186, at least one business day prior to the date the witness will be tested.

7. If a witness elects not to take a court-provided test, the following is a list of approved tests the witness may take. (NOTE: Antigen tests are **not** approved.) **If a witness elects to take one of the following tests, the test must be taken on the day of and prior to when they remove their mask in the courtroom and confirmation must be provided.**

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe)
- LAMP (Loop-mediated Isothermal Amplification), including but not limited to the following brand:
 - Lucira Health
- TMA (Transcription-mediated Amplification), including but not limited to the following brands:
 - Abbott ID NOW
 - Quidel Lyra PCR
 - Abbott Realtime PCR
 - Cobas Qualitative PCR
 - FTD PCR
 - Xpert Xpress
 - Simplexa Direct PCR
 - RUCDR Infinite Biologics

The following tests that are NOT approved:

- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW and Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests
- All lateral flow tests
- Any doctor's note

8. Confirmation of EITHER a negative test result OR a confirmed case of COVID-19 within the prior 90 days must be submitted to the Court through its staff BEFORE the witness testifies.

SO ORDERED.

Dated: January 26, 2022
White Plains, NY


CATHY SEIBEL, U.S.D.J.